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HUMAN RIGHTS COMMITTEE
Seventy-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Initial report of the Principality of Monaco

1. The Committee considered the initial report of Monaco (CCPR/C/MCO/99/1) at its 1935th and 1936th meetings, held on 13 July 2001, and adopted the following observations at its 1949th meeting on 24 July 2001.

A. Introduction

2. The Committee commends the State party for its timely submission of its report, which contains basic information on its domestic legislation relating to the implementation of the Covenant. It regrets, however, that the report is so brief and, in particular, lacking in information on jurisprudence and the practical implementation of the Covenant and on factors or difficulties that prevent or impede that implementation. It nevertheless takes note of the useful oral clarifications provided by the delegation during the consideration of the report.

B. Positive aspects

3. While noting that the death penalty has been abolished in the State party for many years, the Committee welcomes the State party's ratification of the second Optional Protocol to the Covenant in 2000.

C. Principal causes of concern and recommendations

4. The Committee is concerned about the existence of six interpretative declarations and one reservation made by the State party when ratifying the Covenant.

The State party should reduce the number of those interpretative declarations. The Committee encourages it to review them, particularly those that have become or are becoming obsolete and unnecessary in the light of developments that have taken place or are taking place in the State party, especially with regard to articles 13, 14, 19 and 25 (c) of the Covenant.

5. The Committee notes the lack of clarity concerning the position occupied by the Covenant in the State party's legal system.

It request the State party to explain in its next report exactly what status the Covenant has in domestic law so that it can be determined whether the Covenant can be invoked directly before the courts and which instrument prevails when there is a conflict with domestic law, including the Constitution.

6. The Committee notes that there is no national human rights commission and that there are no plans to establish one.

The State party should consider establishing such an independent institution for the protection of human rights.

7. The Committee is concerned that many legislative measures that have become obsolete and inconsistent with the Covenant remain in force (art. 2 of the Covenant).

It considers that the State party should bring its legislation into line with the provisions of the Covenant.

8. The Committee regrets the lack of information in the initial report on the representation of women in public and private life (arts. 3 and 26 of the Covenant).

The State party should include detailed information in its next report so that the status of women may be assessed more accurately in the light of the Covenant and, in particular, the principle of non-discrimination based on sex.

9. The Committee expresses its concern about the discriminatory nature of certain provisions of the Civil Code, including article 182, which states that the husband is the head of the family; article 196, which gives husbands the right to choose the couple's place of residence; and article 301, which vests the father with parental authority over the children (arts. 3, 23 and 26 of the Covenant).

The State party should repeal these discriminatory provisions of the Civil Code and adopt the appropriate legislative provisions to ensure de facto equality between men and women.

10. The Committee is concerned about the discriminatory legal status of women insofar as the transmission of Monegasque nationality to children is concerned (arts. 3 and 26 of the Covenant).

The State party should adopt legislation giving men and women the same right to transmit nationality to children.

11. The Committee expresses its concern about the legal status of children born out of wedlock (art. 24 of the Covenant).

The State party should adopt appropriate legislation to ensure that children born out of wedlock enjoy the same rights as other children.

12. The Committee is concerned that Monegasque legislation discriminates between boys and girls in that the legal age for marriage is 15 years for girls, but 18 years for boys (arts. 23 and 26 of the Covenant).

The State party should amend its legislation to ensure that girls and boys are treated equally by making the legal age of marriage 18 years, regardless of sex.

13. The Committee regrets that the State party's legislation does not provide for any specific penalty for racial discrimination (art. 26 of the Covenant).

The State party should adopt legislation providing for specific penalties for racial discrimination.

14. The Committee notes the absence of any specific mention of the presumption of innocence in the State party's legislation (art. 14 of the Covenant).

The State party should explicitly incorporate this principle in its legislation and take all other measures that this implies, particularly where pre-trial detention is concerned.

15. The Committee expresses its concern about the inadequacy of the guarantees available to persons in police custody, particularly the right of such persons to legal assistance (art. 9 of the Covenant).

The State party should take appropriate legislative measures to ensure that the rights of persons in police custody are protected and, specifically, that they are allowed to obtain the assistance of a lawyer.

16. The Committee expresses its concern that no justification is given for the administrative measures relating to the expulsion of foreigners (art. 13 of the Covenant).

The State party should assume the obligation of justifying administrative decisions, particularly those relating to expulsions.

17. While noting the special status of Monegasques, who are in a numerical minority in the Principality of Monaco, the Committee draws attention to the distinction made in law between Monegasques and non-Monegasques, particularly in the area of employment and where the exercise of the freedoms of association and assembly is concerned (arts. 21, 22 and 26 of the Covenant).

The State party should ensure that such distinctions, which in certain cases and circumstances may justify differences in treatment based on objective and reasonable criteria, do not take the form of discrimination. The Committee also recommends that naturalization should be granted on the basis of objective criteria and within a reasonable time-frame, especially for persons who have lived in Monaco for many years.

18. The Committee is concerned that criminal legislation continues to provide for exile (art. 12 of the Covenant).

The State party should repeal these provisions, which are totally incompatible with article 12, paragraph 4, of the Covenant.

19. The Committee takes note of the exceptions to freedom of expression which are provided for by the law of the State party and are justified by the protection of individual rights or the safeguarding of general interests (art. 19 of the Covenant).

The State party should take steps to ensure that these restrictions on freedom of expression are consistent with those provided for in article 19, paragraph 3, of the Covenant and, in particular, that they are strictly necessary in terms of the purpose they are intended to serve.

20. The Committee notes the absence of any detailed information on freedom of religion or belief and manifestations thereof (art. 18 of the Covenant).

The State party should include data in its next report which will enable the Committee to assess the situation of religious communities or communities of faith (in the area of education, for example), particularly from the standpoint of the principle of non-discrimination.

21. The Committee notes that the State party has taken steps to ensure the dissemination of the initial report to the Monegasque population after its consideration by the Committee (art. 2 of the Covenant).

The State party should ensure that its next periodic report is disseminated prior to its consideration by the Committee so that the comments of the population and non-governmental organizations may be obtained beforehand.

22. While noting the existence of human rights programmes for the police, the Committee regrets the absence of specific information on human rights training for members of the judiciary and other civil servants (art. 2 of the Covenant).

The State party include detailed information in its next report on efforts to educate civil servants in the implementation of the rights provided for in the Covenant.

23. The State party should transmit within one year, in accordance with rule 70, paragraph 5, of the Committee's rules of procedure, relevant information on the implementation of the Committee's recommendations on the non-justification of administrative measures relating to the expulsion of foreigners (para. 16) and exile (para. 18). The Committee requests the State party to include information in its next report, which is to be submitted by 1 August 2006, on the other recommendations it made and on the Covenant as a whole.